



Iowa Department of Human Services

Terry E. Branstad
Governor

Kim Reynolds
Lt. Governor

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Director

INFORMATIONAL LETTER NO.1378

DATE: April 16, 2014

TO: Iowa Medicaid Home and Community-Based Services (HCBS) Waiver and Individual Consumer Directed Attendant Care (I-CDAC) Providers, Case Managers, Department of Human Services (DHS) Service Workers, Supervisors, Service Area Managers and Independent Support Brokers

FROM: Iowa Department of Human Services, Iowa Medicaid Enterprise (IME)

RE: Legal Representatives as Paid Employees

EFFECTIVE: January 1, 2014

Senate File (SF) 2320 was signed by the governor on April 3, 2014, directing the department to adopt rules regarding legal representatives as paid providers of service under the Consumer Directed Attendant Care (CDAC) and Consumer Choices Option (CCO) services.

SF 2320 states that an individual who serves as a member's legal representative and provides services under a CDAC agreement or a CCO employment agreement in effect on or after December 31, 2013, may continue to act as a provider. SF 2320 reverses the January 1, 2014, Iowa Administrative Code (IAC) 441-79.9(7) rule change that did not allow legal representatives to act as paid providers when providing service to the person they legally represent as described in [Informational Letter No. 1316](#)¹.

If the legal representative acts as a paid provider on or after December 31, 2013, SF2320 requires:

- That the payment rate to the legal representative is fair and reasonable based on the service needs of the member.
- That the payment rate to the legal representative shall not exceed the median statewide reimbursement for the service unless the higher rate receives prior approval by the department.
- That the legal representative is not paid for more than 40 hours of service per week
- That a contingency plan is in place for the provision of services when the paid legal representative is unable to provide the needed services.

Over the past several months, the department has received numerous exception to policy (ETP) requests to allow a legal representative to be a paid provider of service. Since SF 2320 allows a legal representative to be a paid provider of CDAC or CCO services, the following applies:

¹ <http://www.dhs.state.ia.us/uploads/1316%20Legal%20Representatives%20as%20Paid%20Employees.pdf>

- ETP requests are no longer needed.
- All ETP requests that are currently in process will reflect the directives in SF 2320.
- Barring any other reason to be disqualified as a service provider, any legal representative may now be considered for authorization into a service plan.
- A legal representative who has been approved to provide services through an ETP will not need to request another ETP to continue to be a provider.

A legal representative who applied to be a provider after January 1, 2014, and was denied an exception to policy may now provide services for the person they are representing.

In addition, SF 2320 also:

- Directs the department to amend HCBS rules to replace agency provided CDAC services with personal care services (non-self-directed).
- Directs the department to begin the transition of individual CDAC providers to agency provided personal care or CCO services, for those willing and able to self-direct services, beginning July 1, 2016.

SF 2320, being deemed of immediate importance, took effect upon enactment on April 3, 2014, and is retroactive to December 31, 2013.

Please submit any questions to HCBSwaivers@dhs.state.ia.us.